

**CRIME CONTROL AND PUBLIC SAFETY
UNLAWFUL WORKPLACE HARASSMENT
POLICY AND PROCEDURE**

I. PURPOSE

It is the intent of the Department of Crime Control and Public Safety to provide a workplace that is free from any conduct that is defined as unlawful workplace harassment. This policy also prohibits retaliation against employees.

II. POLICY

It is the policy of the North Carolina Department of Crime Control and Public Safety that no employee may engage in speech or conduct that is defined as unlawful workplace harassment as outlined. All employees are guaranteed the right to work in an environment free from unlawful workplace harassment and retaliation. This policy is in compliance with State Personnel policy found in Section 1 of the State Personnel Manual.

The Department of Crime Control and Public Safety will conduct a prompt and impartial investigation of any allegations and review the totality of the circumstances to determine whether the alleged conduct constitutes unlawful workplace harassment. Any interference, coercion, restraint or reprisal against a person complaining of unlawful workplace harassment is strictly prohibited by this policy.

A prompt and impartial investigation will be made of all cases alleging unlawful workplace harassment based on presented facts surrounding the misconduct. Any interference, coercion, restraint, or reprisal of any person complaining of unlawful workplace harassment is prohibited.

II. DEFINITIONS

The following definitions apply to this policy:

- A. The state defines Unlawful Workplace Harassment as unwelcomed or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo.
- B. Hostile Work Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance..
- C. Quid Pro Quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- D. Retaliation is adverse treatment that occurs because of opposition to unlawful workplace harassment.

III. APPLICABILITY

This policy applies to former employees or any full-time or part-time employee of the Department of Crime Control and Public Safety with an appointment that is permanent, probationary, trainee, time-limited, permanent or temporary.

VI. PROCEDURES

It is the responsibility of every supervisor in the Department to consider and take appropriate action promptly on any complaint or allegation reported.

Open and effective communication between employee and supervisor is essential to the most productive operation of the Department. All employees are encouraged to resolve problems through informal discussion with their immediate supervisor and supervisor's supervisor; however, an employee who wishes to file a formal grievance on a work-related problem shall present the grievance in accordance with the following procedure. If the grievance is a result of a dismissal, the employee may appeal directly to the Department Secretary as provided in Step Three.

A. Procedure for Nondiscrimination Grievances

Step 1 - Report of Incident

The grievant shall submit a written complaint to their supervisor and the Personnel Director within thirty (30) **calendar days** of the alleged harassing action. The written complaint must state the alleged harassing action, the date(s) of the actions, and the identity of those involved in the alleged harassment.

Note: The grievant has the right to by-pass any step in the reporting process involving the review of or decisions by the alleged harasser.

Step 2 - Agency Response to Complaint

The Department shall take appropriate remedial action within sixty (60) **calendar days** from the receipt of the written complaint unless the 60-day period has been waived and the grievant has acknowledged such waiver. The waiver and acknowledgement shall be in writing.

An impartial investigation of the allegation will be conducted and the findings of the investigation will be provided to the Personnel Director and EEO Officer.

The Personnel Director and the Secretary of Crime Control and Public Safety or his designee will review the findings and determine appropriate agency action. This will constitute the final agency decision.

Step 3 - Agency Response to Grievant

The Secretary of Crime Control and Public Safety or his designee shall render the final agency decision to the grievant in writing.

If the grievant rejects the agency decision, does not receive a response to the complaint after the sixty (60) calendar day response period has expired, or the sixty (60) calendar

day period is waived, an appeal may be made directly to the Office of Administrative Hearings and the State Personnel Commission. Appeals should be sent to:

Office of Administrative Hearing
Civil Rights Division
Post Office Drawer 27447
Raleigh, NC 27611-7447

Additional considerations

- A grievant has the right to file a simultaneous complaint under Title VII with the Equal Employment Opportunity Commission (EEOC).
- An individual with a grievance concerning a denial of employment, promotion, training, or transfer, or concerning a demotion, layoff, transfer or termination due to discrimination based on age, sex, race, color, national origin, religion, creed, political affiliation or handicapping condition as defined by G.S. 168A-3, or a grievance based on retaliation for opposition to alleged discrimination may still appeal directly to the Office of Administrative Hearings and the State Personnel Commission.
- Former employees are not required to conform to the written complaint procedures directed in G.S. 126-34. Former employees may appeal directly to the Office of Administrative Hearings and the State Personnel Commission.

VII. Agency Responsibilities

The Department of Crime Control and Public Safety shall:

1. Develop an unlawful workplace harassment prevention plan or policies and procedures to comply with and implement the law and rules pertaining to unlawful workplace harassment. The plan shall be submitted as a part of the agency's Equal Employment Opportunity (EEO) plan.

The plan shall set for the steps to prevent and correct unlawful workplace harassment. The plan shall include, but not be limited to:

- a. A policy signed by the agency head, establishing that unlawful workplace harassment or retaliation against employees is prohibited;
 - b. A process for disseminating the agency's unlawful workplace harassment policy and providing training to new and existing employees;
 - c. A method for implementing appropriate disciplinary actions to address unlawful workplace harassment and to ensure that disciplinary actions shall be consistently and fairly applied;
2. Establish a definitive internal procedure for reporting and investigating allegations of unlawful workplace harassment.
 3. Maintain and report unlawful workplace harassment complaints through established grievance reporting mechanisms in the Personnel Management Information System (PMIS).